

July 6, 2004

MEMORANDUM

To: ALL PERSONS UTILIZING THE CHILD SUPPORT GUIDELINES

From: THE SENIOR FAMILY COURT JUDGES

FRANCES Q. F. WONG
Senior Judge, First Judicial Circuit

SHACKLEY F. RAFFETTO
Senior Judge, Second Judicial Circuit

GREG NAKAMURA
Senior Judge, Third Judicial Circuit

GEORGE M. MASUOKA
Senior Judge, Fifth Judicial Circuit

Re: 2004 AMENDED CHILD SUPPORT GUIDELINES (*effective October 1, 2004*)
(With Attachments A -1, A-2, B, and C)

Hawai'i Revised Statutes Section 576D-7(a) provides that "[T]he Family Court, in consultation with the [Child Support Enforcement] agency, shall establish guidelines to establish the amount of child support when an order for support is sought or being modified under this chapter." The guidelines are to be reviewed every four years.

Attached are the 2004 Amended Hawai'i Child Support Guidelines ("Guidelines"). These Guidelines will be effective October 1, 2004 and will supersede all prior guidelines and amendments. They apply, statewide, to all divorce, paternity, and other proceedings involving child support orders entered on or after October 1, 2004. Prior to October 1, 2004, stipulations or orders entered by the Court or proposed by the Office of Child Support Hearings shall be governed by the November 1, 1998, Child Support Guidelines, except that parties may stipulate to the application of these 2004 Guidelines.

The major changes to the 1998 Child Support Guidelines, the Guidelines Worksheet, Income Tables, and Instructions are as follows:

- (a) Case law citations have been removed because they are unnecessary to understanding the instructions.
- (b) The Simplified Child Support Guidelines Worksheet is no longer necessary and has been removed. The cases that would have used the Simplified Child Support Guidelines Worksheet in the previous guidelines will be decided by applying exceptional circumstances.
- (c) The Guidelines now expressly address the situation where a child support obligor does not have the ability to pay Guidelines child support for a child for whom support is presently being determined, and still meet his or her Guidelines-imposed child support obligations to other children.
- (d) The Guidelines include an express statement of policy with respect to adult dependent children. The Guidelines provide that child support should continue for an educationally dependent adult full-time student until the age of 23. The adult dependent child's earnings and property should be considered. In appropriate circumstances, the adult dependent child should contribute to his or her own self-support through 1) part-time employment not harmful to academic progress, or to other appropriate school-related pursuits, 2) grants, scholarships, and fellowships, and (3) loans. Support may be ordered beyond age 23 in appropriate cases. Support for special-needs children is expressly addressed.
- (e) The Guidelines now provide that child support obligation of high income child support obligors, whose support calculated under the Guidelines exceeds the reasonable needs of their children, shall be decided on a case-by-case basis.
- (f) Provisions of a Hawai'i Intermediate Court of Appeals' decision regarding Social Security benefits paid for children are incorporated into the Guidelines.
- (g) The Guidelines now include an express statement of the circumstances in which child support is subject to review and modification.

These Guidelines focus on the children's needs. They attempt to distribute the costs of the children's care and education between the parents so that both parents may remain able to meet their own basic needs, while permitting children to share in the good fortune of those parents whose incomes and abilities allow them to have more than a minimum standard of living.

The existing Guidelines were reviewed by the Family Court Judges, representatives from the Child Support Enforcement Agency (CSEA), the Family Support Division of the Department of the Corporation Counsel, the Office of Child Support Hearings (OCSH), attorneys from the Hawai'i State Bar Association's Family Law Section

(FLS) who represent clients from all income levels and walks of life, and concerned others who made recommendations with the goals of continuing a child-focused approach to child support, simplifying the calculation methods and forms, and addressing the concerns of parents and children involved in child support cases. We extend to them our appreciation for their work on the Guidelines.

We wish to particularly thank various committees who assisted the Family Court. The statutorily mandated review began over two years ago with the work of the First Circuit's Child Support Guidelines Committee who devoted countless hours preparing the initial drafts:

Judge Allene R. Suemori, Chair	Michael McEnerney, Esq., CPA, FLS
Judge R. Mark Browning	Rosemary McShane, Deputy Corp. Counsel
Judge Darryl Y. C. Choy, (ret.)	Judith Schevtchuk, Esq., FLS
Wanda Chong-Mendonca, OCSH	Michael Steele, Deputy Attorney General
Everett Cuskaden, Esq., FLS	Trina Yamada, Deputy Corp. Counsel
William Darrah, Esq., FLS	

The work by the First Circuit's Committee was reviewed, statewide, by representatives from the Family Court and the Child Support Enforcement Agency. Thereafter, a Conference Committee poured even more hours into this important work:

Judge Ben Gaddis	(Hilo)	Susan Jong	(Law Clerk, Oahu Fam.Ct.)
Judge Calvin Murashige	(Kauai)	Rodney Maeda	(Hawaii Fam.Ct.)
Judge Karen Radius	(Oahu)	Mary Anne Magnier	(DAG/Oahu)
Judge Eric Romanchak, (ret.)	(Maui)	Rosemary McShane	(Corp. Counsel/Oahu)
Judge Allene Suemori	(Oahu)	Kurt Shimamoto	(Law Clerk, Oahu Fam.Ct.)
Judge Frances Wong	(Oahu)	Lawrence Sousie	(DAG/Oahu)
Bonnie Brooks	(Maui Fam.Ct.)	Erin Sugita	(OCSH/Oahu)
Wanda Chong-Mendonca	(OCSH/Oahu)	Keith Yamanaka	(DAG CSEA/Oahu)
Regina Jimenez	(Kauai Fam.Ct.)		

After the Family Court's 2003 Annual Symposium, Guidelines were promulgated but were quickly rescinded due to the identification of errors. Subsequently, the following Revision Committee members worked to sort through these errors:

Judge R. Mark Browning	Frank Lockwood	(FLS)
Judge Karen Radius	Mary Anne Magnier	(DAG)
Judge Eric Romanchak, (ret.)	Doug Matsuoka	(Formerly VLSH)
Judge Allene Suemori	Mike McEnerney	(CPA, FLS)
Judge Bode A. Uale	Rosemary McShane	(Corp. Counsel)
Judge Frances Wong	Kurt Shimamoto	(Law Clerk, Fam. Ct.)
William Darrah	Erin Sugita	(OCSH)
Wanda Chong-Mendonca	Trina Yamada	(Corp. Counsel)
Gregory Frey	Keith Yamanaka	(DAG CSEA)

The Judges would like to thank all of these people for their patient and diligent input in the service to the children and families of this community.

Lastly, the statewide Family Court Judges convened their annual Symposium in July 2004, during which these Guidelines were adopted.